

Remarks

Claims 3 and 13 are cancelled and claim 15 is added. Claims 1, 7, 9 and 14 are amended. Claims 1, 2, 4 to 12, 14 and 15 are pending in this application of which only claims 1 and 14 are in independent form.

Claims 4, 7 and 9 were rejected under 35 USC 112, second paragraph, as being indefinite for the reasons set forth on page 2 of the action.

Claim 4 was objected to because it contained the limitation "said operator-controlled element" without an adequate antecedent basis. Claim 1 is amended and now incorporates the antecedent needed. Also, claim 7 is amended to be dependent from claim 2 as suggested by the Examiner thereby correcting the indefiniteness noted. Also, claim 9 is appropriately amended so that it too should now be definite.

The claims should now satisfy the requirements of the statute and be definite.

Claims 1, 2, 6 to 9 and 14 were rejected under 35 USC 102(b) as being anticipated by Shuman et al. Claim 1 is amended herein to incorporate therein the features and limitations of cancelled claims 3 and 13 and the applicant will now show that claim 1, as amended, patentably distinguishes the applicant's invention over this reference.

Shuman et al discloses an adaptive speed control wherein a curve warning system is provided. When a curve lying up ahead is detected, then a driving safety request is generated. Street

data from a map data bank is received as well as data which indicate weather conditions and visibility conditions. An output signal is outputted to the adaptive speed control in dependence upon these input quantities. The output signal can indicate a change of speed in order to be able to maneuver safely through the upcoming curve (column 30, lines 32 to 58).

In the action, the suggestion is made that the subject matter of original claim 3 is disclosed by Shuman et al in accordance with which the speed limiting is disabled when the operator-controlled element (accelerator pedal) is actuated. However, we are not told in the action where in Shuman et al our person of ordinary skill could possibly obtain this knowledge. The applicant has reviewed the entire disclosure of Shuman et al and has found no suggestion as to such an operator-controlled element, much less, the actuation of an operator-controlled element to effect the disabling of the speed limiting.

As amended, claim 1 includes the feature and limitation of:

"disabling said limiting of said speed
when an operator-controlled element is
actuated beyond a pregiven threshold
angle;"

so that claim 1, as now amended, should patentably distinguish the applicant's invention over this reference.

Claims 3, 4, 11 and 12 were rejected under 35 USC 103(a) as being unpatentable over Shuman et al in view of Artis et al. The applicant will show that claim 1, as amended, also patentably distinguishes his invention over this combination of references.

Artis et al discloses an arrangement for operating an automatic speed control for a vehicle which has means for

subdividing the pedal path of an accelerator pedal into two parts. When actuating the pedal in the first part of the pedal path, the automatic speed control is activated. In the second part of the pedal path, the actuation of the accelerator pedal determines the acceleration which goes beyond the acceleration set in the control. The driver can, in this way, execute maneuvers or drive at speeds which are greater than those permitted by the automatic speed control system (column 3, lines 56 to 61). In the case of an emergency, the driver actuates the accelerator pedal beyond the first part of the pedal path in order to obtain the desired acceleration (column 4, lines 12 to 14).

Artis et al, however, does not disclose the feature of applicant's original claim 13 which is now incorporated into claim 1 in accordance with which an increase of the speed of the vehicle above the maximum permissible speed is carried out in the form of a ramp function or iteratively in a pregiven step width. Thus, claim 1 now includes the feature and limitation of:

"carrying out an increase of the speed of said vehicle above the maximum permissible speed in the form of a ramp function or iteratively in a pregiven step width."

The above feature and limitation is nowhere suggested in Artis et al and Hellmann et al does not satisfy this deficiency.

Hellmann et al discloses a method for interrupting a speed or distance control of a control system of a motor vehicle wherein, after switching off the active control, the system passes into the standby mode with the aid of a pregiven algorithm. As an algorithm, a linear function for the

acceleration is provided in the case of propulsion as well as in the case of braking. In an alternate configuration, a step function is used with correspondingly configured steps. In this way, a smooth or soft transition from the active control operation into the standby mode is achieved. The desired acceleration value in the propulsion case is reduced in accordance with the pregiven algorithm until a minimum acceleration value is reached (paragraph [0004] and paragraph [0016])). In the opposite situation, for a braking case, the desired acceleration value is increased in accordance with the pregiven algorithm ([2004] and [0015])). A ramp function can be used for the algorithm [0017].

Accordingly, the subject matter of Hellmann et al is directed to reducing an acceleration down to a minimum value using, for example, a ramp function in the case of propulsion of the vehicle when switching off the speed control according to FIG. 2. In the opposite situation, the acceleration in the braking case is increased when switching off the speed control according to FIG. 3 of this reference.

In applicant's claim 1, the limiting of the speed is disabled when an operator-controlled element (especially an accelerator pedal) is actuated beyond a pregiven threshold angle. The increase of the speed of the vehicle caused thereby above the maximum permissible speed is carried out in the form of a ramp function or iteratively in a pregiven step width.

In contrast to Hellmann et al, in the applicant's invention, the speed of the vehicle is increased when the limiting of the speed of the vehicle is disabled, that is, the vehicle

acceleration is not reduced to a minimum value as is provided in Hellmann et al for the propulsion case. The switching off of the speed control in Hellmann et al is also not realized by overriding the accelerator pedal, instead, this is achieved by actuating a corresponding switch (paragraph [0002]).

In applicant's claim 1 and in contrast to the combination applied thereagainst, an actuation of the operator-controlled element beyond the threshold angle in a controlled manner in the form of a ramp function or iteratively in a pregiven step width leads to the increase of the speed of the vehicle so that a desired speed above the maximum permissible speed is not reached too abruptly because of an override of the accelerator pedal whereby the vehicle reaction for the driver remains controllable. In this connection, applicant notes that none of the three references are concerned with this problem solved by the applicant's invention.

In view of the above, applicant submits that claim 1, as amended, patentably distinguishes his invention over the combination of Shuman et al, Artis et al and Hellmann et al and should now be allowable. Claims 2 and 4 to 12 are all dependent from claim 1 so that these claims too should be allowable. Claim 14 parallels claim 1 in an apparatus context and has been similarly amended so that this claim too should now be allowable as should claim 15 which is dependent therefrom.

Reconsideration of the application is earnestly solicited.

Respectfully submitted,



Walter Ottesen
Reg. No. 25,544

Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, Maryland 20885-4026

Phone: (301) 869-8950

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